

7 December 1970

MEMORANDUM FOR THE RECORD

SUBJECT: Second Spouse Amendment to CIA Retirement Act

1. In an effort to keep pace with the so-called "second spouse" amendments to the Retirement Act (pending before the Congress in S. 437), parallel amendments for CIARD were prepared by OLC on 17 November 1970 and coordinated with OGC and DDS (Attachment A).

2. The amendments were found in order, but the DDS indicated that he did not want them pushed if it would delay progress of our omnibus amendments (S. 4571).

3. In view of the imminent passage of the Civil Service amendments by the House 7 December, the situation was again reviewed within OLC and the decision was made not to push the second spouse amendments since they had not yet passed and since the omnibus amendments are to be acted upon in executive session by the Senate Armed Services Committee on 8 December and incorporation of new material at this time most likely would be rejected by Ed Braswell, Chief of Staff, Senate Armed Services Committee, and could upset favorable consideration of our proposed omnibus amendments on 8 December.

4. Statistical Information

---The so-called second spouse amendments also eliminate the dependency requirement for a spouse to receive an annuity based on death-in-service of a female employee. [REDACTED] in the Retirement Branch of the Office of Personnel informed me that there had been five female deaths-in-service cases to date. In no case was there a surviving spouse.)

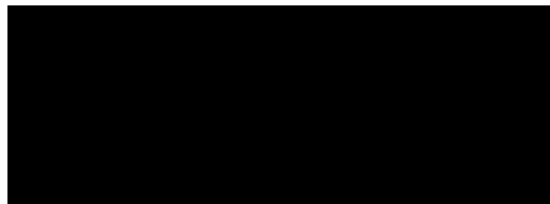
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---The amendments also permit designation of a surviving spouse by an unmarried participant who marries following retirement. (Per Benthall, one case to his knowledge.)

---Information on predeceased spouses is necessarily fragmentary as the fact becomes relevant only after a participant who elected a survivor annuity dies.



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Assistant Legislative Counsel

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A BILL

To amend the Central Intelligence Agency Retirement Act of 1964 for
Certain Employees, as amended, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of
2 the United States of America in Congress assembled, That --
3 Section 1. Section 204 of the Central Intelligence Agency Retire-
4 ment Act of 1964 for Certain Employees, as amended, (78 Stat. 1043;
5 50 U.S.C. 403 note) is amended --

6 (a) by striking "dependent" in subsection (a);

7 (b) by striking "Dependent widowers" and inserting "Widower"
8 in lieu thereof in subsection (b) (2); and

9 (c) by inserting ". " before the ", " and striking the remainder of
10 the sentence in subsection (b) (2).

11 Section x. Section 221(b) of the Central Intelligence Agency
12 Retirement Act (50 U.S.C. 403 note) is amended to read as follows:

13 "(b)(1) If a participant who is married at the time of retirement
14 dies the surviving spouse to whom the participant was married at the
15 time of retirement, or the widow or widower to whom the participant
16 was married after retirement, is entitled to an annuity equal to 55
17 percent of the amount of the participant's annuity computed as pre-
18 scribed in paragraph (a) of this section, up to the full amount of such

1 annuity specified by the participant as the base for such survivor
2 benefits at the time of retirement. The annuity of the participant
3 shall be reduced by 2 1/2 per centum of any amount up to \$3600
4 specified as the base for such survivor benefit by the participant
5 plus 10 per centum of any amount over \$3600 so specified.

6 "(2) If an annuitant dies after having elected a reduced annuity
7 provided in paragraph (2) of section 221(f) the surviving widow or
8 widower is entitled to an annuity computed as prescribed in paragraph
9 (1) of this subsection.

10 "(3) A spouse acquired after retirement is entitled to a survivor
11 annuity under this subsection only upon electing this annuity instead
12 of any other survivor benefit to which he may be entitled under this
13 or another retirement system for Government employees. The annuity
14 of the surviving spouse, widow, or widower under this subsection
15 commences on the day after the annuitant dies. This annuity and the
16 right thereto terminate on the last day of the month before the surviving
17 spouse, widow, or widower --

18 "(A) dies; or

19 "(B) remarries before becoming 60 years of age."

20 Section xx. Section 221(f) of the Central Intelligence Agency
21 Retirement Act (50 U.S.C. 403 note) is amended --

1 (1) by inserting "(1)" immediately after "(f)"; and

2 (2) by adding at the end thereof the following new paragraph:

3 "(2) A participant, who is unmarried at the time of retiring
4 and who later marries, may irrevocably elect, in a signed writing
5 received by the Director within 1 year after the marriage, a reduced
6 annuity as provided in section 221(b). The reduced annuity is
7 effective the first day of the month after the election is received by
8 the Director. The election voids prospectively any election previously
9 made under the provisions of paragraph (1) of this subsection."

10 Section xxx. Section 232(b) of the Central Intelligence Agency
11 Retirement Act (50 U.S.C. 403 note) is amended --

12 (1) by striking "dependent" wherever it occurs; and

13 (2) by inserting a "." after "section 221(g)" and striking the
14 remainder of the section.

15 Section xxxx. (a) The amendments made by sections 1, x, and
16 xxx shall not apply in the case of participants who died before
17 _____[date of enactment identical to Civil Service
18 amendment] and the rights of such persons and their survivors shall
19 continue in the same manner and to the same extent as if such amend-
20 ments had not been enacted.

1 (b) The amendment made by section xx shall apply to a participant
2 who was unmarried at the time of retiring, but who later married,
3 only if the election is made within one year after enactment.

CHANGES IN EXISTING LAW

Changes in existing law made by the draft bill are shown as follows: existing law in which no change is proposed is shown in roman; existing law proposed to be omitted is enclosed in brackets; new matter is underscored.

Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note).

* * * *

TITLE II -- THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Part A -- Establishment of System Rules and Regulations

* * * *

Annuitants

SEC. 204. (a) Annuitants shall be participants who are receiving annuities from the fund and all persons, including surviving wives and husbands, widows, ["dependent"] widowers, children, and beneficiaries of participants or annuitants who shall become entitled to receive annuities in accordance with the provisions of this Act.

(b) When used in this Act the term --

* * * *

(2) "Widower" ["Dependent widower"] means the surviving husband of a participant who was married to such participant for at least two years immediately preceding her death or is the father of issue by marriage to the participant, [, and who is incapable of self-support by reason of mental or physical disability, and who received more than one-half of his support from such participant.]

* * * *

Part C -- Computation of Annuities

SEC. 221.

* * * * *

(b) (1) If a participant who is married at the time of retirement dies the surviving spouse to whom the participant was married at the time of retirement, or the widow or widower to whom the participant was married after retirement, is entitled to an annuity equal to 55 percent of the amount of the participant's annuity computed as prescribed in paragraph (a) of this section, up to the full amount of such annuity specified by the participant as the base for such survivor benefits at the time of retirement. The annuity of the participant shall be reduced by 2 1/2 per centum of any amount up to \$3600 specified as the base for such survivor benefit by the participant plus 10 per centum of any amount over \$3600 so specified.

(2) If an annuitant dies after having elected a reduced annuity provided in paragraph (2) of section 221(f) the surviving widow or widower is entitled to an annuity computed as prescribed in paragraph (1) of this subsection.

(3) A spouse acquired after retirement is entitled to a survivor annuity under this subsection only upon electing this annuity instead of any other survivor benefit to which he may be entitled under this or another retirement system for Government employees. The annuity of the surviving spouse, widow, or widower under this subsection commences on the day after the annuitant dies. This annuity and the right thereto terminate on the last day of the month before the surviving spouse, widow, or widower--

(A) dies; or

(B) remarries before becoming 60 years of age.

[(b) At the time of retirement, any married participant may elect to receive a reduced annuity and to provide for an annuity payable to his wife, or her husband, commencing on the date following such participant's death and terminating upon the death or upon remarriage prior to attaining age sixty of such surviving wife or husband. The annuity payable to the surviving wife or husband after such participant's death shall be 55 per centum of the amount of the participant's annuity computed as prescribed in paragraph (a) of this section, up to the full amount of such annuity specified by him as the base for the survivor benefits. The annuity of the participant making such election shall be reduced by 2 1/2 per centum of any amount up to \$3,600 he specified as the base for the survivor benefit plus 10 per centum of any amount over \$3,600 so specified.]

* * * * *

(f) (1) Any unmarried participant retiring under the provisions of this Act and found by the Director to be in good health may at the time of retirement elect a reduced annuity, in lieu of the annuity as hereinbefore provided, and designate in writing a person having an insurable interest (as that term is used in section 9 (h) of the Civil Service Retirement Act (5 U. S. C. 2259 (h))) in the participant to receive an annuity after the participant's death. The annuity payable to the participant making such election shall be reduced by 10 per centum of an annuity computed as provided in paragraph (a) of this section, and by 5 per centum of an annuity so computed for each full five years the person designated is younger than the participant, but such total reduction shall not exceed 40 per centum. The annuity of a survivor designated under this paragraph shall be 55 per centum of the reduced annuity computed as prescribed above. [The annuity payable to a beneficiary under the provisions of this paragraph shall begin on the first day of the next month after the participant dies. Upon the death of the surviving beneficiary all payments shall cease and no further annuity payments authorized under this paragraph shall be due or payable.]

(2) A participant, who is unmarried at the time of retiring and who later marries, may irrevocably elect, in a signed writing received by the Director within 1 year after the marriage, a reduced annuity as provided in section 221(b). The reduced annuity is effective the first day of the month after the election is received by the Director. The election voids prospectively any election previously made under the provisions of paragraph (1) of this subsection.

* * * * *

DEATH IN SERVICE

SEC. 232

* * * * *

(b) If a participant, who has at least eighteen months of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with the provisions of section 251 or 252(a) (2), dies before separation or retirement from the Agency and is survived by a widow or a [dependent] widower, as defined in section 204, such widow or [dependent] widower shall be entitled to an annuity equal to 55 per centum of the annuity computed in accordance with the provisions of section 221(a), except that the computation of the annuity of the participant under such section shall be at least the smaller of (i) 40 per centum of the participant's average basic salary, or (ii) the sum obtained under such section after increasing the participant's service of the type last performed by the difference between his age at the time

of death and age sixty. The annuity of such widow or [[dependent]] widower shall commence on the date following death of the participant and shall terminate upon death or upon remarriage prior to attaining age sixty of the widow or [[dependent]] widower (subject to the payment and restoration provisions of section 221(g)). [[, or upon the dependent widower's becoming capable of self-support.]]

* * * * *

SEC. xxxx. (a) The amendments made by sections 1, x, and xxx shall not apply in the case of participants who died before [date of enactment identical to Civil Service amendment] and the rights of such persons and their survivors shall continue in the same manner and to the same extent as if such amendments had not been enacted.

(b) The amendment made by section xx shall apply to a participant who was unmarried at the time of retiring, but who later married, only if the election is made within one year after enactment.

STATINTL

TRANSMITTAL SLIP		DATE 5 January 1971
TO: [REDACTED]		
ROOM NO.	BUILDING	
REMARKS: As you probably know, the Senate agreed to the House amendments on S. 437 on 29 December. As of this afternoon the White House had no record as to whether it had been signed by the President. [REDACTED] (Note sent with copy of [REDACTED])		
FROM:		
ROOM NO.	BUILDING	EXTENSION
FORM NO. 241 1 FEB 55		
REPLACES FORM 36-8 WHICH MAY BE USED.		

(47)

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OFFICIAL ROUTING SLIP

TO	NAME AND ADDRESS	DATE	INITIALS
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ACTION	DIRECT REPLY	PREPARE REPLY
APPROVAL	DISPATCH	RECOMMENDATION
COMMENT	FILE	RETURN
CONCURRENCE	INFORMATION	SIGNATURE

Remarks:

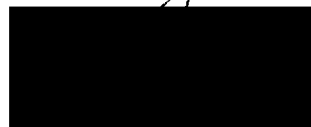
Attached for your review and comment are draft amendments to the CIA Retirement Act based upon the so-called second spouse amendments to the Civil Service system, approved by the Senate and favorably reported, amended, by the House Committee. The other applicable concept in the Civil Service package is the deletion of dependency requirements for a widower in death-in-service cases.

Your review at this time will give us a leg up if the Civil Service amendments are approved and if it is determined that we should seek similar amendments and are given an opportunity

to incorporate them in the retirement package now on the Hill.

As an aid in review we are also forwarding changes in CIA statute through proposed amendments and the Civil Service language as passed by the Senate.

Please let us know if you do not have the copies of the Senate and House reports (91-1092 and 91-1469) on hand.



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FROM: NAME, ADDRESS AND PHONE NO.

DATE

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